

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

SELBERT ANTHONY SMITH,	:	
	:	
Petitioner,	:	
	:	
vs.	:	5:05-CV-319 (CAR)
	:	
VAN PEAVY, Sheriff,	:	HABEAS CORPUS
	:	28 U.S.C. § 2254
Respondent.	:	

***ORDER ON THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE***

Before the Court is the United States Magistrate Judge's Recommendation [Doc. 26] that Respondent's Motion to Dismiss [Doc. 21] be granted. Through its motion, Respondent seeks dismissal of Petitioner's petition for habeas corpus on the grounds that Petitioner has failed to exhaust state remedies. Petitioner filed no Objection to the Recommendation. Having considered the matter, the Court agrees with the Recommendation. Accordingly, the Recommendation [Doc. 26] that Respondent's Motion to Dismiss [Doc. 21] be granted is hereby **ADOPTED** and **MADE THE ORDER OF THE COURT.**

SO ORDERED, this 28th day of April, 2006.

S/ C. Ashley Royal
C. ASHLEY ROYAL
UNITED STATES DISTRICT JUDGE

SSH